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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,259	12/29/2000	Victor Shao	50277-1525	4588
29989	7590	09/08/2004	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			NGUYEN, ALAN V	
1600 WILLOW STREET			ART UNIT	
SAN JOSE, CA 95125			PAPER NUMBER	
			2662	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/751,259	Applicant(s) SHAO ET AL.	
	Examiner Alan Nguyen	Art Unit 2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/11/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 28 May 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the reference.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiigi (US 6,304,898) in view of Hanson et al (US 6,457,045) hereinafter Hanson.

Regarding **claims 1 and 8** Shiigi discloses method and computer readable medium for sharing an opinion with an online community (**wireless email client server network communication system; col 3 lines 32-38; It is inherent there is some form of memory to carry out the operations of Shiigi's apparatus**), the method comprising the steps of establishing a first connection between a mobile device and a gateway using a first protocol;

where said mobile device supports said first protocol but not a second protocol (**a client computer can be a wide range of network-connectable computing devices such as digital cell phones enabled with Wireless Application Protocol WAP; col 3 lines 48-55**) ;

where said online community is associated with a server that supports said second protocol but not said first protocol (**Internet Message Access Protocol IMAP mail server 250 that stores email where email recipients can retrieve their email; col 6 lines 1-16**);

receiving user input that indicates said opinion through user interface controls on said mobile device (**The email message is composed on the client computer and is later sent to a gateway; col3 lines 59-64**) ;

transmitting opinion data indicating said opinion, using said first protocol, from said mobile device to said gateway (**Email is a form of communication that contains both objective and subjective information. The email is sent from the user to a server computer that communicates with a gateway computer 240; col 5 lines 58-67**);

transmitting said opinion data, using said second protocol, from said gateway to said server (**the gateway sends the email messages to mail servers 250; col 5 line 67, col 6 lines 1-6**);

storing said opinion data at said server (**mail server 250 stores email where email recipients can retrieve their email; col 6 lines 1-16**); and

transmitting said data, using said second protocol, from said server to members of said online community in response to requests received by said server in said second protocol (**IMAP mail server 250 that stores email where email recipients can retrieve their email; col 6 lines 1-16**).

Shiigi, however, fails to expressly disclose the use of the email messages as part of survey results for the online community to read and reply.

Hanson discloses communication network that receives and distributes messages such as polls and surveys through the form of email among a group of participants connected to the network/server. **(An electronic form such as a “poll” in figure 11 is retrieved and completed by a participant. The participant then submits the form to a server by email. Participants that are on the distribution list in the electronic form receive an email from the server about the form can then retrieve the results; col 11 lines 50-61, col 12 lines 4-15; also see col 13 lines 12-32).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shiigi's apparatus to be able to allow the mobile user to conduct surveys and receive feedback, as taught by Hanson. The motivation is to broaden the utility and capability of Shiigi's wireless email apparatus, allowing mobile users to also perform interactive activities such as completing a poll of interest, voting in an election, sporting event pool, purchase authorization, and other surveys of interest to the user, as explained by Hanson on col 2 lines 64-67, and col 3, lines 1-8.

Regarding **claims 2 and 9** Shiigi discloses the steps of: receiving, through user interface controls on a second mobile device, user input that requests said survey results; transmitting a request for said survey results, using said first protocol, from said second mobile device to said gateway; transmitting a request for said survey results,

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using said second protocol, from said gateway to said server; in response to said request received at said server using said second protocol, transmitting said survey results, using said second protocol, to said gateway; and sending said survey results, using said first protocol, from said gateway to said second mobile device **(The email is sent from the user to a server computer that communicates with a gateway computer 240; col 5 lines 58-67. The gateway sends the email messages to mail servers 250; col 5 line 67, col 6 lines 1-6. It is inherent that if a second mobile device were to access the message from the email server, it would have to access the gateway through the WAP interface and then the gateway would access the mail server through the IMAP interface)**

Shiigi, however, fails to expressly disclose the use of the email messages as part of survey results for the online community to read and reply.

Hanson discloses communication network that receives and distributes messages such as polls and surveys through the form of email among a group of participants connected to the network/server. **(An electronic form such as a "poll" in figure 11 is retrieved and completed by a participant. The participant then submits the form to a server by email. Participants that are on the distribution list in the electronic form receive an email from the server about the form can then retrieve the results; col 11 lines 50-61, col 12 lines 4-15; also see col 13 lines 12-32).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shiigi's apparatus to be able to allow the mobile user to

conduct surveys and receive feedback, as taught by Hanson. The motivation is to broaden the utility and capability of Shiigi's wireless email apparatus, allowing mobile users to also perform interactive activities such as completing a poll of interest, voting in an election, sporting event pool, purchase authorization, and other surveys of interest to the user, as explained by Hanson on col 2 lines 64-67, and col 3, lines 1-8.

Regarding **claims 3 and 10** Shiigi discloses where the first protocol is WAP (**a client computer can be a wide range of network-connectable computing devices such as digital cell phones enabled with Wireless Application Protocol WAP**; col 3 lines 48-55); and the second protocol is HTTP (**the server computer 220 includes an HTTP server interface fro connection to the Internet**; col 4 lines 62-65).

Regarding **claims 4 and 11** Shiigi discloses where the step of transmitting opinion data from said mobile device to said gateway includes transmitting said opinion data over a wireless connection (**a client computer can be a wide range of network-connectable computing devices such as digital cell phones enabled with Wireless Application Protocol WAP**; col 3 lines 48-55; **The email is sent from the user to a server computer that communicates with a gateway computer 240**; col 5 lines 58-67); and the step of transmitting said opinion data from said gateway to said server includes transmitting said opinion data over a network to which both said gateway and said server are connected (**the gateway sends the email messages to the IMAP mail servers 250**; col 5 line 67, col 6 lines 1-6).

Regarding **claims 5 and 12** Shiigi discloses the steps of - prior to receiving user input that indicates said opinion, said mobile device receiving from said server, through said gateway, previous opinion data that indicates an opinion previously stored on said server; where said user input is entered as a response to said previous opinion data; and said server storing an association between said previous opinion data and said opinion data **(The mail server 250 contains messages that can be indirectly retrieved by mobile devices. Messages sent from the mobile device can be a reply to an email message that was previously received by the mobile user; col 6 lines 1-12)**

Regarding **claim 6, 7, 13, and 14** Shiigi discloses where the opinion data is stored within said mobile device; and the stored opinion data is transmitted from said mobile device to said gateway in a batch with other opinion data previously entered by said a user of said mobile device, and the step of receiving user input that indicates said opinion through user interface controls on said mobile device is performed while said mobile device does not have a connection to said gateway; the opinion data is stored within said mobile device; and the stored opinion data is transmitted from said mobile device to said gateway after a connection is established between said mobile device and said gateway **(a client computer has software that allows it to store and capture previously typed messages; col 5 lines 35-57. The client computer can send multiple messages to the gateway).**

Response to Arguments

1. Applicant's arguments filed 28 May 2004 have been fully considered but they are not persuasive. Regarding **claims 1 and 8** Applicant states the Shiigi reference (US 6,304,898) fails to indicate a first protocol that different from the second protocol used, SMTP, and that the reference fails to disclose where the mobile device supports the first protocol, but not a second protocol (page 3 and 4 of remarks). The Examiner respectfully disagrees. Referring to page 2 of the detailed action and column 3 lines 48-55 the mobile device uses the Wireless Application Protocol to convey data to server. The WAP used by the mobile device is the first protocol. The embodiment of the instant application also uses WAP as the first protocol, as suggested in claim 3. Applicant states the reference also fails to disclose where the online community is associated with a server that supports the second protocol but not the first protocol (page 4 of remarks). Referring to column 6 lines 1-16 an Internet Message Access Protocol IMAP mail server 250 stores email where email recipients can retrieve their email. IMAP used my mail server 250 is the second protocol. Applicant states the reference also fails to disclose the element of transmitting data, using the second protocol, from the server to members of the online community in response to requests received by the server in the second protocol (page 5 of remarks). Referring to column 6 lines 1-16 mail server 250 transmits the email data to clients such as users of personal computers using wireline access. The transmission of email data by server 250 is triggered by requests made by the clients. Applicant states the reference also fails to disclose the step of storing opinion

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data as part of survey results at the server. Although Shiigi fails to expressly disclose storing the email messages as part of survey results. The Hanson reference (US 6,457,045) discloses an electronic form such as a "poll" in figure 11 that is retrieved and completed by a participant. The participant then submits the form to a server by email. Participants that are on the distribution list in the electronic form receive an email from the server about the form can then retrieve the results. Please see column 11 lines 50-61, column 12 lines 4-15, and also see column 13 lines 12-32. Shiigi discloses that his embodiment desires a messaging system that is used to support the many interactions of users throughout the world using the Internet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further utilize Shiigi's email communications method by adapting the use of polls and surveys for the clients to complete and share with each other. It is concluded that the Shiigi reference in combination with the Hanson reference in their entirety continue to read on claims 1-14 through obviousness. Therefore the claims are not allowed over the prior art.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Nguyen whose telephone number is 571-272-3089. The examiner can normally be reached on 9am-6pm ET, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVN
September 1, 2004



JOHN PEZZLO
PRIMARY EXAMINER